



## **Public Review Document**

### **ANNUAL STATE APPLICATION**

**under  
PART B  
of the**

**INDIVIDUALS WITH DISABILITIES  
EDUCATION ACT AS AMENDED IN  
2004**

**FEDERAL FISCAL YEAR (FFY) 2020**



**Public Comment Period: March 9, 2020 – April 9, 2020**

**Public Review Period: March 9, 2020 – May 8, 2020**

## PUBLIC NOTICE

The Nebraska Department of Education is submitting the FFY 2020 Application to the U.S. Office for Special Education Programs for funds pursuant to the Individuals with Disabilities Education Improvement Act (IDEA). Federal funds received under the Part B Application are used by the Department of Education school districts and other service providers in the provision of special education and related services to children with verified disabilities from date of diagnosis to age 21. The Application, which includes a Statement of Assurances and funding information, is available for review at three public locations: (1) The Nebraska Department of Education, 301 Centennial Mall South, Lincoln, Nebraska 68509; (2) Educational Service Unit #3, 6949 South 110<sup>th</sup> Street, Omaha, Nebraska 69128; and (3) 4215 Avenue I, Scottsbluff, Nebraska 69361. The Application is also available for review on the Nebraska Department of Education website at: <http://www.education.ne.gov/sped/public-reporting/>. The Application will be available for review for 60 days beginning March 9, 2020 through May 8, 2020. Public comment will be accepted from March 9, 2020 to April 9, 2020.

# **2020 IDEA Part B Application Comment Form**

**Comments may be submitted beginning March 9, 2020 through April 9, 2020.**

Date: \_\_\_\_\_

Commenter Name: \_\_\_\_\_

Section or page number of Application about which you are commenting: \_\_\_\_\_

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Comments:

Mail to: Amy Rhone  
Office of Special Education  
Nebraska Department of Education  
PO Box 94987  
Lincoln, NE 68509-4987

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OMB NO. 1820-0030

Expires: 1/31/2023

**ANNUAL STATE APPLICATION UNDER PART B OF THE  
INDIVIDUALS WITH DISABILITIES EDUCATION ACT AS AMENDED IN 2004  
FOR FEDERAL FISCAL YEAR 2020**

CFDA No. 84.027A and 84.173A

ED FORM No. 9055

**UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION PROGRAMS**

Washington, DC 20202-2600

**Public Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a currently valid OMB control number. The valid OMB control number for this collection is 1820-0030. Public reporting burden for this collection of information is estimated to average 14 hours per responses, and an average of 25 additional hours for responses reporting data related to significant disproportionality in a given year, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The obligation to respond to this collection is required to obtain or retain a benefit under 20 U.S.C. 1411 and 1419. If you have comments or concerns regarding the status of your individual submission of this form, please contact Jennifer Simpson at [Jennifer.Simpson@ed.gov](mailto:Jennifer.Simpson@ed.gov) or at the Office of Special Education and Rehabilitative Services US Department of Education, 400 Maryland Avenue SW, Washington, DC 20202.

Respondents are required to submit information for Sections I-IV of the Annual State Application in order to receive a grant under Section(s) 611 and/or 619 of the Individuals with Disabilities Education Act. Respondents are required to provide the data in Section V pursuant to IDEA section 618(a)(3), which provides the Secretary authority to collect annual data on any information that may be required by the Secretary and 34 CFR §300.647(b)(7), which requires States to report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress if the State uses the "reasonable progress" flexibility in 34 CFR §300.647(d)(2), and the rationales for each, to the Department.

## Section I

### A. Submission Statement for Part B of IDEA

Please select 1 or 2 below. Check 3 if appropriate.

- ☐ 1. The State provides assurances that it has in effect policies and procedures to meet all eligibility requirements of Part B of the Act as found in PL 108-446, the Individuals with Disabilities Education Act and applicable regulations (IDEA). The State is able to meet all assurances found in Section II.A of this Application.
- ☒ 2. The State cannot provide assurances for all eligibility requirements of Part B of the Act as found in PL 108-446. The State has determined that it is unable to make the assurances that are checked as 'No' in Section II.A. However, the State assures that throughout the period of this grant award the State will operate consistent with all requirements of IDEA in PL 108-446 and applicable regulations. The State will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2021. The State has included the date by which it expects to complete necessary changes associated with assurances marked 'No'. (Refer to Assurances found in Section II.A.)

Optional:

- ☐ 3. The State is submitting modifications to State policies and procedures previously submitted to the Department. These modifications are: (1) deemed necessary by the State, for example when the State revises applicable State law or regulations; (2) required by the Secretary because there is a new interpretation of the Act or regulations by a Federal court or the State's highest court; and/or (3) because of an official finding of noncompliance with Federal law or regulations.

### B. Conditional Approval for Current Grant Year

If the State received conditional approval for the current grant year, check the appropriate statement(s) below:

#### 1. Conditional Approval Related to Assurances in Section II.A:

- ☐ a. Section II.A provides documentation of completion of all issues identified in the FFY 2019 conditional approval letter.
- ☒ b. As noted in Section II.A, the State has not completed all issues identified in the FFY 2019 conditional approval letter.

#### 2. Conditional Approval Related to Other Issues:

- ☐ a. The State previously submitted documentation of completion of all issues identified in the FFY 2019 conditional approval letter.
- ☐ b. The State is attaching documentation of completion of all issues identified in the FFY 2019 conditional approval letter. *(Attach documentation showing completion of all issues.)*
- ☐ c. The State has not completed all issues identified in the FFY 2019 conditional approval letter. *(Attach documentation showing completion of any issues and a list of items not yet completed.)*

## Section II

### A. Assurances Related to Policies and Procedures

The State makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act. (20 U.S.C. 1411-1419; 34 CFR §§300.100-300.174)

Yes (Assurance is given.)	No (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)  Check and enter date(s) as applicable	Assurances Related to Policies and Procedures
X		1. A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.
X		2. The State has established a goal of providing a full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. (20 U.S.C. 1412(a)(2); 34 CFR §§300.109-300.110)
X		3. All children with disabilities residing in the State, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.
X		4. An individualized education program, or an individualized family service plan that meets the requirements of section 636(d), is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)
X		5. To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be



<b>Yes</b> (Assurance is given.)	<b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)  Check and enter date(s) as applicable	<b>Assurances Related to Policies and Procedures</b>
		achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.
X		6. Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.
X		7. Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)
X		8. Agencies in the State comply with 34 CFR §§300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)
X		9. Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)
X		10. Agencies in the State, and the SEA if applicable, comply with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)

<b>Yes</b> (Assurance is given.)	<b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)  Check and enter date(s) as applicable	<b>Assurances Related to Policies and Procedures</b>
X		11. The State educational agency is responsible for ensuring that the requirements of Part B are met including the requirements of 34 CFR §§300.113, 300.149, 300.150 through 300.153, and 300.175 and 300.176 and that the State monitors and enforces the requirements of Part B in accordance with 34 CFR §§300.600-300.602 and 300.606-300.608. (20 U.S.C. 1412(a)(11); 34 CFR §300.149)
X		12. The Chief Executive Officer of a State or designee of the officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (b) of 34 CFR §300.154 and the State educational agency, in order to ensure that all services described in paragraph (b)(1)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under §300.154(a)(3). Such agreement or mechanism shall meet the requirements found in 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154.
X		13. The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording that agency reasonable notice and an opportunity for a hearing. (20 U.S.C. 1412(a)(13); 34 CFR §300.155)
	X (June 30, 2021)	14. The State educational agency has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E), as amended by the Every Student Succeeds Act; 34 CFR §300.156.
X		15. The State has established goals for the performance of children with disabilities in the State that meet the requirements found in 20 U.S.C. 1412(a)(15)(A)-(C), as amended by the Every Student Succeeds Act; 34 CFR §300.157.
X		16. All children with disabilities are included in all general State and districtwide assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized

<b>Yes</b> (Assurance is given.)	<b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)  Check and enter date(s) as applicable	<b>Assurances Related to Policies and Procedures</b>
		education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); as amended by the Every Student Succeeds Act; 34 CFR §300.160.
X		17. Funds paid to a State under this part will be expended in accordance with all the provisions of Part B including 20 U.S.C. 1412(a)(17)(A)-(C); 34 CFR §300.162.
X		18. The State will not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year, unless a waiver is granted, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.163 through 300.164.
X		19. Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), the State ensures that there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. (20 U.S.C. 1412(a)(19); 34 CFR §300.165)
X		20. In complying with 34 CFR §§300.162 and 300.163, a State may not use funds paid to it under this part to satisfy State-law mandated funding obligations to local educational agencies, including funding based on student attendance or enrollment, or inflation. (20 U.S.C. 1412(a)(20); 34 CFR §300.166)
X		21. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State as found in 20 U.S.C. 1412(a)(21)(A)-(D); 34 CFR §§300.167-300.169.
X		22. The State educational agency examines data, including data disaggregated by race and ethnicity, to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities in accordance with 20 U.S.C. 1412(a)(22)(A)-(B); 34 CFR §300.170.
X		23a. The State adopts the National Instructional Materials Accessibility Standard for the purposes of providing instructional materials to blind persons or other persons with print disabilities, in a timely manner after the publication of the National Instructional Materials Accessibility

<b>Yes</b> (Assurance is given.)	<b>No</b> (Assurance cannot be given. Provide date on which State will complete changes in order to provide assurance.)  Check and enter date(s) as applicable	<b>Assurances Related to Policies and Procedures</b>
		Standard in the Federal Register in accordance with 20 U.S.C. 1412(a)(23)(A) and (D); 34 CFR §300.172.
		23b. (Note: Check either "23b.1" or "23b.2" whichever applies.
X		23b.1 The State educational agency coordinates with the National Instructional Materials Access Center and not later than 12/03/06 the SEA as part of any print instructional materials adoption process, procurement contract, or other practice or instrument used for purchase of print instructional materials enters into a written contract with the publisher of the print instructional materials to: <ul style="list-style-type: none"> <li>• require the publisher to prepare and, on or before delivery of the print instructional materials, provide to the National Instructional Materials Access Center, electronic files containing the contents of the print instructional materials using the National Instructional Materials Accessibility Standard; or</li> <li>• purchase instructional materials from the publisher that are produced in, or may be rendered in, specialized formats. (20 U.S.C. 1412(a)(23)(C); 34 CFR §300.172)</li> </ul>
		23b.2 The State educational agency has chosen not to coordinate with the National Instructional Materials Access Center but assures that it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. (20 U.S.C. 1412(a)(23)(B); 34 CFR §300.172)
X		24. The State has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C 1412(a)(24); 34 CFR §300.173)
X		25. The State educational agency shall prohibit State and local educational agency personnel from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.

## B. Other Assurances

The State also makes the following assurances:

Yes	Other Assurances
X	1. The State shall distribute any funds the State does not reserve under 20 U.S.C. 1411(e) to local educational agencies (including public charter schools that operate as local educational agencies) in the State that have established their eligibility under section 613 for use in accordance with this part as provided for in 20 U.S.C. 1411(f)(1)-(3); 34 CFR §300.705.
X	2. The State shall provide data to the Secretary on any information that may be required by the Secretary. (20 U.S.C. 1418(a)(3); 34 CFR §§300.640-300.645.)
X	3. The State, local educational agencies, and educational service agencies shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)
X	4. As applicable, the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

## C. Certifications

The State is providing the following certifications:

Yes	
X	1. The State certifies that ED Form 80-0013, <i>Certification Regarding Lobbying</i> , is on file with the Secretary of Education.  With respect to the <i>Certification Regarding Lobbying</i> , the State recertifies that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making or renewal of Federal grants under this program; that the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," when required (34 CFR Part 82, Appendix B); and that the State Agency shall require the full certification, as set forth in 34 CFR Part 82, Appendix A, in the award documents for all sub awards at all tiers.
X	2. The State certifies that certification in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §76.104 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the State.
X	3. The State certifies that the arrangements to establish responsibility for services pursuant to 20 U.S.C. 1412(a)(12)(A)-(C); 34 CFR §300.154 (or 20 U.S.C. 1412(a)(12)(A)); 34 CFR §300.154(a) are current. This certification must be received prior to the expenditure of any funds reserved by the State under 20 U.S.C. 1411(e)(1); 34 CFR §300.171.

**D. Statement**

I certify that the State of Nebraska can make the assurances checked as 'yes' in Section II.A and II.B and the certifications required in Section II.C of this application. These provisions meet the requirements of the Part B of the Individuals with Disabilities Education Act as found in PL 108-446. The State will operate its Part B program in accordance with all of the required assurances and certifications.

If any assurances have been checked 'no', I certify that the State will operate throughout the period of this grant award consistent with the requirements of the IDEA as found in PL 108-446 and any applicable regulations, and will make such changes to existing policies and procedures as are necessary to bring those policies and procedures into compliance with the requirements of the IDEA, as amended, as soon as possible, and not later than June 30, 2021. (34 CFR § 76.104)

I, the undersigned authorized official of the

Nebraska; Nebraska Department of Education ,

*(Name of State and official name of State agency)*

am designated by the Governor of this State to submit this application for FFY 2020 funds under Part B of the Individuals with Disabilities Education Act (IDEA).

Printed/Typed Name and Title of Authorized Representative of the State:

Steve Milliken, Deputy Commissioner of the Nebraska Department of Education on behalf of Matthew L. Blomstedt, Commissioner of the Nebraska Department of Education

Signature:

Steve Milliken  
Steve Milliken (May 1, 2020)

Date:

May 1, 2020

## Section III

### **Description of Use of Funds Under Part B of the Individuals with Disabilities Education Act—20 U.S.C. 1411(e)(5); 34 CFR § 300.171**

States must provide the Description of Use of Funds by completing and submitting the Excel Interactive Spreadsheet with the FFY 2020 Application.

Describe how the amount retained by the State educational agency under 20 U.S.C. 1411(e)(1) will be used to meet the following activities under Part B. (20 U.S.C. 1411(e)(1)-(3), (6) and (7)) The Department annually identifies for States the maximum amounts that a State may retain under Section 1411(e)(1) and (2).<sup>1</sup> The dollar amounts **listed in the Excel Interactive Spreadsheet** by the State for administration and for other State activities should add up to less or equal to the dollar amount provided to the State by the Department for each of these activities.

**Enter whole dollar amounts (do not enter cents) in appropriate cells on the State's Excel Interactive Worksheet. The Excel Interactive Spreadsheet must be submitted as part of the State's application.**

Describe the process used to get input from LEAs regarding the distribution of amounts among activities described in the Excel Interactive Spreadsheet to meet State priorities. (20 U.S.C. 1411(e)(5)(B); 34 CFR § 300.704)

The Nebraska Department of Education staff meets with representatives of LEAs (Liaison Committee) at least annually (proposed quarterly) to provide an opportunity for input on the proposed use of IDEA Part B funds for activities to accomplish State priorities.

The Nebraska Department of Education hosts monthly conference calls where members of the Nebraska Association of Special Education Supervisors and other LEA special education directors have the opportunity to comment on State priority activities and proposed distribution amounts of IDEA Part B State Set-Aside dollars.

The Special Education Advisory Council (Panel) is also provided an opportunity to comment and provide feedback on the use of IDEA Part B funds to implement State priorities.

The Nebraska Department of Education hosts a Results Driven Accountability Stakeholder convening annually where the priorities within the State Systemic Improvement Plan are discussed thoroughly as well as how IDEA Part B funds will be used to implement such priorities. In addition to this convening, the department co-hosts three convenings a year with the Nebraska Association of Special Education Supervisors to discuss state implementation of federal mandates (RDA) and other priorities and the use of IDEA Part B funds to do such.

During the public review period of the IDEA Part B Application, LEA's also have the opportunity to comment on the use of funds for the identified State-level activities.

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<sup>1</sup>Each State may reserve for each fiscal year not more than the maximum amount the State was eligible to reserve for State administration under this section for fiscal year 2004 or \$800,000 (adjusted in accordance with 20 U.S.C. 1411(e)(1)(B)), whichever is greater; and each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under 20 U.S.C. 1411(b)(1) for the fiscal year or \$35,000, whichever is greater.

For each fiscal year beginning with fiscal year 2005, the Secretary shall cumulatively adjust: 1) the maximum amount the State was eligible to reserve for State administration under this part for fiscal year 2004; and 2) \$800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

# Select Area

FFY 2020

\$81,201

REGULAR AWARD AMOUNT Est

\$81,201

TOTAL AWARD AMOUNT

## ADMINISTRATION

Sec.  
III

\$1,708,167

Maximum Available for Administration.

How much do you want to set aside for Administration in dollars?

\$1,708,167 OK

You must distribute, in whole dollars, the amount you want to set aside for Administration among the following activities:

For the purpose of administering IDEA Part B including Preschool Grants under 20 U.S.C. 1419, a High Cost Fund, and the coordination of activities under Part B with, and providing technical assistance to, other programs that provide services to children with disabilities. (Note: These funds may be used for Administering but not Financing a High Cost Fund)

a. \$1,708,167

b. \$0

For the administration of Part C of IDEA, if the SEA is the Lead Agency for the State under Part C.

You may set aside a portion of your Administration funds resulting from inflation for the following 4 Other State-Level Activities. Additional funds for these purposes may also be set aside under Other State-Level Activities. Based on the amount that you propose to set aside for Administration, the maximum amount of Administration funds that you may use for these 4 activities is:

#N/A

For support and direct services, including technical assistance, personnel preparation, and professional development and training.

c. \$0

To assist local educational agencies in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities.

d. \$0

To assist local educational agencies in meeting personnel shortages.

e. \$0

To support capacity building activities and improve the delivery of services by local educational agencies to improve results for children with disabilities.

f. \$0

Subtotal, Administration funds used for Other State-Level Activities

\$0

#N/A  
#N/A

If you receive a Preschool Grant under 20 U.S.C. 1419, you may use Administration funds, along with other funds, to develop and implement a State policy jointly with the lead agency under Part C and the SEA to provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills) in accordance with Part C to children with disabilities who are eligible for services under the Preschool Grant program and who previously received services under Part C until such children enter, or are eligible under State law to enter, kindergarten, or elementary school as appropriate.

g. \$0

The total of details for your Administration set-aside is

\$1,708,167 OK

## OTHER STATE-LEVEL ACTIVITIES



\$0 More needs to be distributed.

\$0 More needs to be distributed.

\$0 More needs to be distributed.

\$0 More needs to be distributed.

\$0 More needs to be distributed.

\$0 More needs to be distributed.

To improve the use of technology in the classroom by children with disabilities to enhance learning.

o.

To support the use of technology, including technology with universal design principles and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities.

p.

Development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of children with disabilities to postsecondary activities.

q.

Alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children enrolled in State-operated or State-supported schools, and children with disabilities in charter schools.

r.

To support the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with Sections 1111(b) and 1201 of the Elementary and Secondary Education Act of 1965.

s.

To provide technical assistance to schools and LEAs, and direct services, including direct student services described in section 1003A(c)(3) of the ESEA to children with disabilities, to schools or LEAs implementing comprehensive support and improvement activities or targeted support and improvement activities under section 1111(d) of the ESEA on the basis of consistent underperformance of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement based on the challenging academic standards described in section 1111(b)(1) of the ESEA.

t.

The total of details for your Other State-Level Activities set-aside is

\$8,002,502 OK

You are almost done.

If you are using money for a High Cost Fund. You must report how much you will use for each of the following two activities. You reported that you would use

\$0

To establish and make disbursements from the high cost fund to local educational agencies in accordance with 20 U.S.C. 1411(e)(3) during the first and succeeding fiscal years of the high cost fund.

u.

To support innovative and effective ways of cost sharing by the State, by an LEA, or among a consortium of LEAs, as determined by the State in coordination with representatives from LEAs, subject to 20 U.S.C. 1411(e)(3)(B)(ii) (Amount may not be more than 5% of the amount reserved for the LEA Risk Pool.)

v.

Establishment of High Cost Fund (20 U.S.C. 1411(e)(3)(B)(i)) - A State shall not use any of the funds the State reserves pursuant to 20 U.S.C. 1411(e)(3)(A)(i), but may use the funds the State reserves under 20 U.S.C. 1411(e)(1), to establish and support the high cost fund.

Subtotal, High Cost Fund

\$0

OK

## Section IV

### State Administration

Section 608(a) of the IDEA requires each State that receives funds under this title to:

- (1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;
- (2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and
- (3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

States must attach to this application a list identifying any rule, regulation, or policy that is State-imposed (not required by IDEA or Federal regulations). If there are no such State-imposed rules, regulations, or policies, please so indicate. In addition, the State is required to inform local education agencies in writing of such State-imposed rules, regulation or policy. (20 U.S.C. 1407(a); 34 CFR § 300.199)

## Nebraska Regulations Exceeding IDEA Requirements

92 NAC 51 (Rule 51) includes the following requirements which exceed the federal requirements contained in IDEA:

- The requirement to provide a Free Appropriate Public Education (FAPE) to all children with disabilities from birth (or date of diagnosis) through the school year in which the student reaches age 21.
- The requirement to make FAPE available to all resident children with disabilities attending a non-public school.
- Innovative Educational Projects can be conducted by school districts and approved cooperatives for the purpose of improving instruction or increasing educational opportunities for children with disabilities.
- Early Childhood Planning Region Teams coordinate services for children birth to age five. The Planning Teams are comprised of family members and representatives from school districts, educational service unites, Nebraska Department of Health and Human Services, agencies providing medical services, Head Start, agencies serving traditionally underserved children, child care providers, services coordination contracting agencies, and other persons serving children with disabilities and their families.
- The requirement to implement student assistance teams or comparable problem solving teams to document intervention strategies to assist the teachers in the provision of general education prior to referral to a multidisciplinary team evaluation.
- A list of approvable endorsements for teachers in each categorical assignment.
- The competency levels required for educational sign language interpreters.
- The process for claiming reimbursement for allowable special education costs is defined.
- The application and payment process for IDEA Flow-Through Allocation is defined.
- The process for contracting for the provision of special education services from a services provider is defined.
- The responsibility for the provision of transportation to children with disabilities who require such services and the process for claiming allowable reimbursement is defined.
- Optional flexible funding projects to provide support services to targeted students not verified for special education services but who would benefit from preventative support services within the context of the general curriculum.

## Section V

### A. Maintenance of State Financial Support

Pursuant to the authority established in IDEA section 618(a)(3), each applicant for funds under section 611 must provide the following State fiscal data with a certification of its accuracy by the State budget office or an authorized representative thereof. Amounts should be shown in whole dollars and are for the State fiscal year (SFY). States may establish compliance with the maintenance of State financial support (MFS) requirement in IDEA section 612(a)(18) and 34 CFR § 300.163 on either a total or per capita basis. In order to complete Section V.A of the Application, States must provide in whole dollars the total amount of State financial support made available for special education and related services for children with disabilities during SFYs 2018 and 2019. However, if a State met the MFS requirement on a per capita basis, it **must** complete the first chart and then may also complete the second chart by providing, in whole dollars, the amount of State financial support made available for special education and related services per child with a disability during SFYs 2018 and 2019.

Total Amount of State Financial Support Made Available for Special Education and Related Services for Children with Disabilities	
SFY 2018	\$232,261,082
SFY 2019	\$235,831,852

Per capita amount of State Financial Support Made Available for Special Education and Related Services for Children with Disabilities	
SFY 2018	
SFY 2019	

Gerry A. Oligmueller

State Budget Officer or Authorized Representative (Printed Name)

Signature of State Budget Officer or Authorized Representative

3-5-2020

Date

## B. Significant Disproportionality<sup>2</sup>

In accordance with 34 CFR § 300.647(b)(7), each State must report all risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress if the State uses the "reasonable progress" flexibility in 34 CFR § 300.647(d)(2), and the rationales for each, to the Department. Under § 300.647(b)(7), rationales for minimum cell sizes that exceed 10 and minimum n-sizes that exceed 30 must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disproportionality based on race and ethnicity, in the identification, placement, or discipline of children with disabilities. Additionally, pursuant to the authority established in IDEA section 618(a)(3), each applicant must also provide the number of years of data it uses in making annual determinations of significant disproportionality. Each applicant must provide this information by completing and submitting the Significant Disproportionality Reporting Form.

Each State must complete and submit the **Significant Disproportionality Reporting Form** with its FFY 2020 IDEA Part B application. After the initial submission of the Form, a State will only be required to submit the Form with any future annual IDEA Part B State applications if the State modifies its risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress, and rationales for each, or the number of years of data used in making annual determinations of significant disproportionality.

The form is included with the FFY 2020 IDEA Part B Grant Application package and can be found at <https://osep.grads360.org/#program/grants>. Please submit the form by following the instructions with the document.

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<sup>2</sup> This collection is not intended to replace or duplicate the information collected through the Significant Disproportionality State Survey (Docket No. ED-2019-ICCD-0065; 1820-NEW). That survey will collect information that the Department will use to support States and LEAs in their efforts to comply with the statutory requirement at section 618(d) of the IDEA.

State	Years of Age Cohort	Description of Upper Age Limit
HI	3 through 21	Age 3 to the student's twenty-second birthday.
IA	3 through 20	Under 21 years of age. Student allowed to complete school year in which age 21 is reached. LEAs can request to serve to 24.
ID	3 through 20	3 through semester turns 21.
IL	3 through 20	Between the ages of 3 and 21. If turns 21 after beginning of school year can complete year and following summer if specified in the IEP.
IN	3 to 22	At least 3 but less than 22. Note: If a student with a disability turns 22 during the school year, the entitlement to FAPE extends to the end of the school year.
KS	3 through 20	Through the school year (ending June 30) in which the student reaches 21.
KY	3 through 20	Age 3 to 21
LA	3 through 21	3 to not more than 21 years, inclusive. If a student turns 22 after the first day of school, the student can complete the school year.
MA	3 through 21	3 through 21.
MD	3 through 20	Birth through the end of the school year in which the student turns 21 years old.
ME	3 through 20	Has not reached 20 at the start of the school year.
MI	3 through 21	Birth to 22. State law covers individuals who are determined eligible for special education until the age of 26.
MN	3 through 21	Birth until July 1 after child with a disability becomes 21 years old but shall not extend beyond secondary school or its equivalent, except as provided in state statute (see section 124D.68, subdivision 2).
MO	3 through 20	Between 3 and 21 years.
MS	3 through 20	Not yet reached 21 years by September 1. If turns 21 during school year, finishes the year.
MT	3 through 18	Between ages of 3 and 18, inclusive. Districts may serve through school year child turns 21.
NC	3 through 21	A student who reaches the age of twenty-two during the school year can complete that school year.
ND	3 through 20	Has not reached 21 by midnight of July 31st. Can complete school year in which turn 21 unless received a high school diploma.
NE	3 through 20	0 through school year reaches 21.
NH	3 through 20	3 years of age or older, but less than 21 years of age.
NJ	3 through 21	3 through 21. If turns 21 during the school year, finishes the year.
NM	3 through 21	Serves 3 year olds will serve if turns 22 after the school year begins.
NV	3 through 21	Under the age of 22.
NY	3 through 20	<p>A student under 21 years of age who has not received a high school diploma is entitled to attend public school without payment of tuition. A student with a disability who reaches age 21 during the period commencing:</p> <ul style="list-style-type: none"> <li>with July 1 and ending on August 31 is entitled to continue in a July and</li> </ul>

State	Years of Age Cohort	Description of Upper Age Limit
		<p>August program.</p> <ul style="list-style-type: none"> <li>on September 1 and ending on June 30 is entitled to continue in such program until the end of the school year. (May 2009)</li> </ul>
OH	3 through 21	Below age 22. Local school district policy determines whether students who turn 22 during the school year may finish the school year.
OK	3 through 21	Ages 3 through 21. If turns 22 during school year (after Sept. 1st) can complete that school year.
OR	3 through 20	Not yet reached 21 years by Sept. 1. If turns 21 during school year finishes year.
PA	3 through 20	Age 3 to 21. If turns 21 during school year finishes year.
PR	3 through 21	3 through 21 years.
RI	3 through 20	If turns 21 during last semester of school year can finish the balance of the school year; however, LEAs are able to terminate services as soon as 21 is attained.
SC	3 through 20	If the student turns age 21 after September 1 of the school year, the LEA must permit the student to enroll and complete the school year. If a student turns age 21 on or prior to September 1, the LEA is not required to permit the student to enroll.
SD	3 through 20	A student who is enrolled in school and becomes twenty-one during the fiscal school year shall have free school privileges until the end of the fiscal year. Fiscal year ends June 30th.
TN	3 through 21	3 through 21. If turns 22 during school year can complete that school year.
TX	3 through 21	3 through 21 (birth for VI and AI).
UT	3 through 21	<p>(b) if a student with a disability turns 22 during the school year, the entitlement extends to the:</p> <ul style="list-style-type: none"> <li>(i) beginning of the school's winter holiday for those who turn 22 on or after the beginning of the school year and before December 31; and</li> <li>(ii) end of the school year for those who turn 22 after December 31 and before the end of the school year.</li> </ul>
VA	3 through 21	Children whose second birthday falls on or before Sept 30 and who have not reached their 22nd birthday on or before Sept 30.
VI	N/A	
VT	3 through 21	3 up to 22nd birthday. If a student on an IEP turns 22 within 3 months of graduation, local education agencies may apply for a waiver to the Secretary of Education that allows the entitlement of FAPE to be extended to the graduation date.
WA	3 through 20	Between 3 and 21. If turns 21 after August 31 eligible for remainder of school year.
WI	3 through 20	3 to 21 unless turns 21 during school term (i.e., school year) then can finish the term. If 21 in Oct remains until June.
WV	3 through 20	Between 3 and 21 years of age prior to Sept. 1 of the school year.

State	Years of Age Cohort	Description of Upper Age Limit
WY	3 through 20	3 through the school year in which the child turns 21.



## SECTION V.B.

## SIGNIFICANT DISPROPORTIONALITY REPORTING FORM

## Introduction:

In accordance with 34 CFR § 300.647 (b)(7), States are required to report to the Secretary risk ratio thresholds, minimum cell sizes, minimum n-sizes, standards for measuring reasonable progress, if appropriate, and rationales for each. In general, these rationales must contain justifications for the choices made, including all relevant data and research relied upon to make an informed choice and how the State included stakeholders in that process. Additionally, pursuant to the authority established in Section 618(a)(3) of the IDEA, the Secretary is also requiring States to report the number of years of data used by your State in making annual determinations of significant disproportionality.

## Section A: Minimum N-Sizes

1. Has the State:	
a. established a minimum n-size of 30 or less in each of the 14 categories of analysis described in § 300.647(b)(3) and (4) and	<input type="radio"/> Yes <input checked="" type="radio"/> No
b. verified that the State does not expect to have a comparison group in any of the categories of analysis that meets the minimum n-size?	

If you answered **YES** to question 1, stop. Go to Page 14, enter the name, title and click "Submit".

2. Does your State use a presumptively reasonable minimum n-size of 30 or less for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?	<input checked="" type="radio"/> Yes <input type="radio"/> No
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If you answered **YES** to question 2 please answer question 2a:

2a. Does your State use the same minimum n-size for all categories of analysis?	<input checked="" type="radio"/> Yes <input type="radio"/> No
---------------------------------------------------------------------------------	---------------------------------------------------------------

If you answered **YES** to question 2a:

- Fill in *Table 1* below by providing the minimum n-size and rationale.

If you answered **NO** to question 2a:

- Fill in *Table 2* below by providing the minimum n-sizes and rationales for each category of analysis.

If you answered **NO** to question 2 please read below and answer question 2b:

**Minimum N-Size Detailed Rationale(s) Required**

In addition to the justification described in the Introduction, the rationale(s) must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disparities based on race and ethnicity in the identification, placement, or discipline of children with disabilities, as required by § 300.647(b)(7).

2b. Does your State use the same minimum n-size for all categories of analysis?	<input type="radio"/> Yes <input type="radio"/> No
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If you answered **YES** to question 2b:

- Fill in *Table 1* below by providing the minimum n-size and *detailed* rationale.

If you answered **NO** to question 2b:

- Fill in *Table 2* below by providing the minimum n-sizes and *detailed* rationales for each category of analysis over 30.

Table 1: Minimum N-Size — Same Minimum N-Size for all Categories of Analysis

Category of Analysis	Minimum N-Size	Rationale <i>(detailed rationale required if minimum n-size is more than 30)</i>
All categories of analysis	30	Nebraska is using the presumptively reasonable n-size of 30, based on the federal guidance and in consultation with our stakeholders, including our Special Education Advisory Council (SEAC). This cell size provides the SEA the opportunity to review data for a range of districts, while avoiding the volatility of a smaller n-size.

Table 2: Minimum N-Size — Multiple Minimum N-Sizes

Category of Analysis	Minimum N-Size	Rationale <i>(detailed rationale required if minimum n-size is more than 30)</i>
All disabilities		
Autism		
Emotional disturbance		
Intellectual disability		

Category of Analysis	Minimum N-Size	Rationale <i>(detailed rationale required if minimum n-size is more than 30)</i>
Other health impairments		
Specific learning disability		
Speech and language impairments		
Inside a regular classroom less than 40% of day		
Inside separate schools and residential facilities		
Total disciplinary removals		
Out of school suspensions <10 days		

Category of Analysis	Minimum N-Size	Rationale (detailed rationale required if minimum n-size is more than 30)
Out of school suspensions >10 days		
In school suspensions <10 days		
In school suspensions >10 days		

### Section B: Minimum Cell Sizes

3. Does your State use a presumptively reasonable minimum cell size of 10 or less for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?

☒ Yes ☐ No

If you answered YES to question 3 please answer question 3a:

3a. Does your State only use one minimum cell size of 10 or less for all categories of analysis?

☒ Yes ☐ No

If you answered YES to question 3a:

- Fill in Table 3 below by providing the minimum cell size and rationale.

If you answered NO to question 3a:

- Fill in Table 4 below by providing the minimum cell sizes and rationales for each category of analysis.

If you answered **NO** to question 3 please read below and answer question 3b:

**Minimum Cell Size Detailed Rationale(s) Required**

In addition to the justification described in the Introduction, the rationales must include a detailed explanation of why the numbers chosen are reasonable and how they ensure that the State is appropriately analyzing and identifying LEAs with significant disparities, based on race and ethnicity, in the identification, placement, or discipline of children with disabilities, as required by § 300.647(b)(7).

3b. Does your State use the same minimum cell size for all categories of analysis?	<input type="radio"/> Yes	<input type="radio"/> No
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If you answered **YES** to question 3b:

- Fill in *Table 3* below by providing the minimum cell size and *detailed* rationale.

If you answered **NO** to question 3b:

- Fill in *Table 4* below by providing the minimum cell size and *detailed* rationales for each category of analysis over 10.

Table 3: Minimum Cell Size — Same Minimum Cell Size for all Categories of Analysis

Category of Analysis	Minimum Cell Size	Rationale (detailed rationale required if minimum cell size is more than 10)
All categories of analysis	10	Nebraska is using the presumptively reasonable cell size of 10, based on the federal guidance and in consultation with our stakeholders, including our Special Education Advisory Council (SEAC). This cell size provides the SEA the opportunity to review data for a range of districts, while avoiding the volatility of a smaller cell size.

Table 4: Minimum Cell Size — Multiple Minimum Cell Sizes

Category of Analysis	Minimum Cell Size	Rationale (detailed rationale required if minimum cell size is more than 10)
All disabilities		
Autism		

Category of Analysis	Minimum Cell Size	Rationale <i>(detailed rationale required if minimum cell size is more than 10)</i>
Emotional disturbance		
Intellectual disability		
Other health impairments		
Specific learning disability		
Speech and language impairments		
Inside a regular classroom less than 40% of day		
Inside separate schools and residential facilities		

Category of Analysis	Minimum Cell Size	Rationale <i>(detailed rationale required if minimum cell size is more than 10)</i>
Total disciplinary removals		
Out of school suspensions <10 days		
Out of school suspensions >10 days		
In school suspensions <10 days		
In school suspensions >10 days		

### Section C: Risk Ratio Thresholds

4. Does your State use one risk ratio threshold for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?	<input checked="" type="radio"/> Yes <input type="radio"/> No
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If you answered **YES** to question 4:

- Fill in *Table 5* below by providing the risk ratio threshold and rationale.

If you answered **NO** to question 4:

- Fill in *Table 6* below by providing the risk ratio thresholds and rationales for each category of analysis.

Table 5: Risk Ratios — Same Risk Ratio Threshold for all Categories of Analysis

Category of Analysis	Risk Ratio Threshold	Rationale
All categories of analysis	4.0	Nebraska has identified a risk ratio threshold of 4.0 by consulting with stakeholders, including SEAC. The SEA and stakeholders concluded that this threshold and the use of 3 years of data would allow the SEA to identify LEAs with patterns of disproportionality, while accounting for annual data anomalies and preventing false positive identifications.

Table 6: Risk Ratios — Multiple Risk Ratio Thresholds

Category of Analysis	Risk Ratio Threshold	Rationale
All disabilities		
Autism		
Emotional disturbance		
Intellectual disability		



Category of Analysis	Risk Ratio Threshold	Rationale
Other health impairments		
Specific learning disability		
Speech and language impairments		
Inside a regular classroom less than 40% of day		
Inside separate schools and residential facilities		
Total disciplinary removals		
Out of school suspensions <10 days		

Category of Analysis	Risk Ratio Threshold	Rationale
Out of school suspensions >10 days		
In school suspensions <10 days		
In school suspensions >10 days		

### Section D: Reasonable Progress

5. Does your state utilize the reasonable progress flexibility?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
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If you answered **NO** to question 5, proceed to question 6.

5a. Does your state utilize the same reasonable progress flexibility for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?	<input type="radio"/> Yes	<input type="radio"/> No
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If you answered **YES** to question 5a:

- Fill in *Table 7* below by providing the State's standard for measuring reasonable progress and rationale.

If you answered **NO** to question 5a:

- Fill in *Table 8* below by providing the State's standards for reasonable progress and the rationale for each category of analysis.

Table 7: Reasonable Progress — Same Standard for all Categories of Analysis

Category of Analysis	Standard	Rationale
All categories of analysis		

Table 8: Reasonable Progress — Multiple Standards

Category of Analysis	Standard	Rationale
All disabilities		
Autism		
Emotional disturbance		
Intellectual disability		
Other health impairments		

Category of Analysis	Standard	Rationale
Specific learning disability		
Speech and language impairments		
Inside a regular classroom less than 40% of day		
Inside separate schools and residential facilities		
Total disciplinary removals		
Out of school suspensions <10 days		
Out of school suspensions >10 days		

Category of Analysis	Standard	Rationale
In school suspensions <10 days		
In school suspensions >10 days		

Section E: Number of Years of Data

6. Does your state use the same number of years of data in making annual determinations of significant disproportionality for each of the 14 categories of analysis described in § 300.647(b)(3) and (4)?	<input checked="checked" type="radio"/> Yes <input type="radio"/> No
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If you answered **YES** to question 6:

- Fill in *Table 9* below by providing the number of years of data the State uses in making annual determinations of significant disproportionality.

If you answered **NO** to question 6:

- Fill in *Table 10* below by providing the number of years of data the State uses in making annual determinations of significant disproportionality for each category of analysis.

Table 9: Years of Data — Same Number of Years Used for all Categories of Analysis

Category of Analysis	Number of Years of Data Used
All categories of analysis	3

Table 10: Years of Data — Multiple Number of Years of Data Used

Category of Analysis	Number of Years of Data Used
All disabilities	
Autism	
Emotional disturbance	
Intellectual disability	
Other health impairments	
Specific learning disability	
Speech and language impairments	
Inside a regular classroom less than 40% of day	
Inside separate schools and residential facilities	
Total disciplinary removals	
Out of school suspensions <10 days	
Out of school suspensions >10 days	
In school suspensions <10 days	
In school suspensions >10 days	

Name of Individual Preparing the Form:

Title of Individual Preparing the Form:

Date:

**SUBMIT**

# Annual-State-App-Under-Part-B-IDEA-FFY-2020-Nebraska-FOR.S.M.Signature

Final Audit Report

2020-05-01

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